

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today  
(1) was not written for publication in a law journal and  
(2) is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte PETER J. WILK  
AND ROBERT C. STIRBL

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Appeal No. 96-1457  
Application 08/098,165<sup>1</sup>

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ON BRIEF

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Before HAIRSTON, KRASS, and BARRETT, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

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<sup>1</sup> Application for patent filed July 28, 1993.

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Application No. 08/098,165

This is an appeal from the final rejection of claims 1 through 6, 8 through 10, 12 through 14 and 21 through 26. In an Amendment After Final (paper number 7), claims 1, 8 and 14 were amended.

The disclosed invention relates to a camera device with an array of lenses.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A camera device comprising:

photosensitive film;

frame means connected to said film for holding said film fixed in a first plane;

a plurality of lenses of different predetermined focusing powers mounted to said frame means in a rectangular array and disposed in a second plane spaced from and parallel to said first plane, said lenses being spaced from one another in said second plane, said film being divided into a plurality of film areas equal in number to said lenses;

shutter means mounted to said frame means for enabling light transmission selectively through said lenses and onto said film; and

shutter activation means mounted to said frame means and operatively connected to said shutter means for activating said shutter means in response to manipulation by a user.

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The references relied on by the examiner are:

|           |           |               |
|-----------|-----------|---------------|
| Cummins   | 3,283,685 | Nov. 8, 1966  |
| Van Allen | 4,304,479 | Dec. 8, 1981  |
| Ohmura    | 4,527,874 | July 9, 1985  |
| Tsuchida  | 5,046,833 | Sep. 10, 1991 |
| Taylor    | 5,222,025 | June 22, 1993 |

The following references were cited by the examiner

(Supplemental Answer, paper number 14) in response to appellants' challenge (Reply Brief, pages 4 and 5) to the examiner's taking of Official Notice (Answer, page 11) that it is known in the art to (a) store a camera in a wallet, (b) remove the camera from the wallet, (c) upon removal of the camera from the wallet, take a picture, and then (d) return the camera to the wallet:

|        |           |               |
|--------|-----------|---------------|
| Little | 844,152   | Feb. 12, 1907 |
| Rice   | 5,043,751 | Aug. 27, 1991 |

Claims 13 and 24 stand rejected under the first paragraph of 35 U.S.C. § 112 as failing to adequately teach how to make and/or use the invention, i.e., for failing to provide an enabling disclosure.

Claim 25 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Cummins.

Claims 1, 5, 6, 8 through 10 and 14 stand rejected under 35 U.S.C. § 103 as being unpatentable over Cummins in view of Ohmura.

Claims 2 through 4 stand rejected under 35 U.S.C. § 103 as

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being unpatentable over Cummins in view of Ohmura, Van Allen and Taylor.

Claim 12 stands rejected under 35 U.S.C. § 103 as being unpatentable over Cummins in view of Ohmura and Tsuchida.

Claims 21 through 23 stand rejected under 35 U.S.C. § 103 as being unpatentable over Cummins in view of Van Allen and Taylor.

Claim 26 stands rejected under 35 U.S.C. § 103 as being unpatentable over Cummins.

Reference is made to the briefs and the answers for the respective positions of the appellants and the examiner.

#### OPINION

We have carefully considered the entire record before us, and we will sustain the rejection of claims 13 and 24 under the first paragraph of 35 U.S.C. § 112, the rejection of claim 25 under 35 U.S.C. § 102(b), the rejection of claims 21 through 23 and 26 under 35 U.S.C. § 103, and reverse the rejection of claims 1 through 6, 8 through 10, 12 and 14 under 35 U.S.C. § 103.

Turning first to the lack of enablement rejection, the examiner indicates (Answer, pages 8 and 9) that "[i]t is not understood how a plurality of viewfinder apertures can be provided since no corresponding apertures or holes are provided in the web 56 so that the user can see through a plurality of

viewfinder apertures." Appellants disclose (specification, page 7) that a plurality of viewfinder windows or apertures 28 on the rear face 26 of the camera are "aligned with windows 20" that hold the lenses 18 on the front face of the camera, and claim that the plurality of viewfinder apertures are paired with respective lenses on the front face of the camera. Figure 5 of appellants' drawing clearly shows a solid film of photosensitive material 56 located between the viewfinder apertures 28 and the plurality of lenses 18. In view of the solid film between the apertures 28 and the lenses 18, we find that the examiner had a reasonable basis for questioning the adequacy of appellants' disclosure for teaching that which is set forth in claims 13 and 24. See In re Doyle, 482 F.2d 1385, 1392, 179 USPQ 227, 232 (CCPA 1973), cert. denied, 416 U.S. 935 (1974). Appellants' response (Brief, pages 15 and 16) to the examiner's question concerning the adequacy of the disclosure is that:

One of ordinary skill in the art would know to put holes or light transmitting passages in web 56 so as to enable viewing therethrough. While it is true that these holes or light transmitting passages in web 56 are not described in the disclosure, one of ordinary skill in the art would nevertheless be able to practice the invention based on the disclosure. It is to be noted that the film is fixed relative to the camera frame, i.e., the film is not shiftable by the user. Accordingly, the provision of light transmission passages in web 56 would be a simple and obvious implementation of the invention in view of the

disclosure.

Appellants' argument to the contrary notwithstanding, the "holes or light transmitting passages in web 56" would expose the film to light before the shutter is opened, and the holes would be in the middle of the picture taking area of the film. In the absence of disclosure or a satisfactory explanation by appellants as to how such problems would be overcome, we are of the opinion that the skilled artisan would have to resort to undue experimentation<sup>2</sup> to solve the problem of light exposure to the film via the viewfinder apertures, and the intrusiveness of the "light transmission passages in web 56." The lack of enablement rejection under the first paragraph of 35 U.S.C. § 112 is sustained.

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. See Glaxo Inc. v. Novopharm Ltd., 52 F.3d 1043, 1047, 34 USPQ2d 1565, 1567 (Fed. Cir.), cert. denied, 516 U.S. 988 (1995). Appellants argue that Cummins does not disclose

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<sup>2</sup> The enablement clause of the first paragraph of 35 U.S.C. § 112 requires that the disclosure adequately describe the claimed invention so that the artisan could practice it without undue experimentation. See Genentech Inc. v. Novo Nordisk A/S, 108 F.3d 1361, 1364, 42 USPQ2d 1001, 1004 (Fed. Cir.), cert. denied, 118 S.Ct. 397 (1997).

"a plurality of exposure indicators as set forth in claim 25, where the exposure indicators are different or separate from manual actuators of a shutter activation assembly" (Brief, page 16). The examiner states (Answer, page 5) that Cummins has:

shutter activation means including individual manual actuators (vertically-moved bar or link 76, slot 78, pin 80, angularly-extending portions 82, overturned extremities 84, and platforms 86) mounted to said frame means and operatively connected to said shutter means for activating said shutter means in response to manipulation by a user; and

a plurality of exposure indicators<sup>3</sup> (actuating buttons 32) equal in number to said lenses and paired with respective ones of said lenses, to indicate that respective film areas have been exposed via said lenses, said exposure indicators being separate or different from said actuators.

Inasmuch as appellants claim that the exposure indicators are "separate or different from said actuators," and not "separate or different" from the claimed "shutter activation means" which includes the individual "actuators," we agree with the examiner that the exposure indicators are broadly speaking "separate or different from said actuators" in spite of their mechanical

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<sup>3</sup> Cummins states (column 5, lines 72 through 74) that each actuating button 32 serves as an "exposure indicator."

connection to each other. The 35 U.S.C. § 102(b) rejection of claim 25 is sustained.

Turning next to the obviousness rejection of claims 1, 5, 6, 8 through 10 and 14, the examiner acknowledges (Answer, page 6) that "Cummins . . . lacks a plurality of lenses of different predetermined focusing powers . . . ." Cummins discloses a portrait camera (column 1, line 19) that has "a plurality of lenses . . . with focus and the aperture fixed relative to a subject to be posed at a given distance . . ." (column 1, lines 47 through 50). Ohmura discloses a dual lens camera "having a relatively long focus lens [T] and a relatively short focus lens [W] either one of which is selected for telephotographing and wide angle photographing" (Answer, page 6). According to the examiner (Answer, page 6), "it would have been obvious to one having ordinary skill in the art to provide the camera of Cummins with a plurality of different focus lens, as taught by Ohmura, in order to take pictures in both telephoto and wide angle mode." Appellants argue (Brief, page 10) that:

Moreover, in view of the . . . purpose and direction of Cummins, the portrait camera of that reference could not be provided with lenses of different focal powers without destroying the identity of the camera as a portrait camera. One of ordinary skill in the art would not incorporate multiple focus lenses into the camera of Cummins inasmuch as Cummins unequivocally states that its lenses have a common



focal length. The teachings of Ohmura are not sufficient to overcome this contrary teaching of the prior art represented by Cummins.

We agree. If both wide angle and telephoto lenses are used in Cummins, then Cummins would not be a "portrait camera" with "focus and the aperture fixed relative to a subject." A camera with both types of lenses is incapable of producing a plurality of like pictures of a single pose of a subject. The obviousness rejection of claims 1, 5, 6, 8 through 10 and 14 is reversed.

The obviousness rejection of claims 2 through 4 and 12 is reversed because the teachings of Van Allen, Taylor and Tsuchida do not cure the noted shortcoming in the teachings of Cummins and Ohmura.

In claims 21 through 23, the lenses are not required to be of "different predetermined focusing powers." Claim 21 does, however, call for a light generating means that generates a flash of light substantially simultaneously with the operation of the shutter means. The claimed light generating means includes a light source and concentrator means for concentrating the light from the light source. The claimed light concentrator in turn includes a Fresnel reflector disposed on one side of the light source. Cummins discloses that "[e]ach shutter has a given speed and is provided with electrical contacts for electronic flash"

(column 1, lines 55 through 57). Cummins does not disclose a specific type of flash. Van Allen discloses an electronic flash 20 (Figure 1) that uses a mirror reflector 34 and Fresnel lens 42 (Figure 7) as a light concentrator in a Polaroid camera. Taylor discloses that "[c]oncave reflective mirrors are sometimes used in a variety of imaging systems" (column 1, lines 21 and 22), that concave mirrors are used by the Polaroid Corporation (column 3, lines 31 through 36), and that Fresnel reflectors are used "as substitutes for optical surfaces which are described as conic sections" (column 4, lines 13 through 15). We agree with appellants' argument (Reply Brief, page 4) that Taylor does not specifically mention the use of a Fresnel reflector in a camera. On the other hand, based upon the noted teachings of Van Allen and Taylor, we agree with the examiner (Answer, page 10) that "it would have been obvious to one having ordinary skill in the art to provide the camera of Cummins with a strobe of Van Allen in which the light reflector is replaced with a Fresnel reflector as taught by Taylor, II since it has been known to select a known reflector on the basis of its suitability for its intended use." The obviousness rejection of claims 21 through 23 is sustained.

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Claim 26 is directed to a method of taking photographs with a camera that is removed from a wallet for use, and is then returned to the wallet after use. The examiner took Official Notice of camera wallets, and concluded (Answer, page 11) that:

Thus, it would have been obvious to one having ordinary skill in the art to (a) store the camera of Cummins in a wallet, (b) remove the camera from the wallet, (c) upon removal of the camera from the wallet, expose at least on one of a plurality of predetermined different areas of the film via a respective one of the lenses, and (d) upon exposure of the one of the plurality of predetermined different areas of the film, return the camera to the wallet for the purpose of protecting a camera when not in use.

Appellants challenged the examiner's taking of Official Notice (Reply Brief, pages 4 and 5), and, in response to this challenge, the examiner cited U.S. Patent No. 5,043,751 issued to Rice "to clearly establish that it is known in the art to store a camera in a wallet," and U.S. Patent No. 844,152 issued to Little "to show that it is well known in the art to store a flat camera in one's pocket" (Supplemental Answer, page 1). The obviousness rejection of claim 26 is sustained because the references cited by the examiner in response to appellants' challenge teach a camera carried in a wallet and/or a pocket-sized camera, and appellants have not rebutted the evidence submitted by the examiner.

#### DECISION

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The decision of the examiner rejecting claims 13 and 24 under the first paragraph of 35 U.S.C. § 112 is affirmed. The decision of the examiner rejecting claim 25 under 35 U.S.C. § 102(b) is affirmed. The decision of the examiner rejecting claims 1 through 6, 8 through 10, 12, 14, 21 through 23 and 26 under 35 U.S.C. § 103 is affirmed as to claims 21 through 23 and 26, and is reversed as to claims 1 through 6, 8 through 10, 12 and 14. Accordingly, the decision of the examiner is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

|                             |   |                 |
|-----------------------------|---|-----------------|
| KENNETH W. HAIRSTON         | ) |                 |
| Administrative Patent Judge | ) |                 |
|                             | ) |                 |
|                             | ) |                 |
|                             | ) | BOARD OF PATENT |
| ERROL A. KRASS              | ) | APPEALS AND     |
| Administrative Patent Judge | ) | INTERFERENCES   |
|                             | ) |                 |
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|                             | ) |                 |
| LEE E. BARRETT              | ) |                 |
| Administrative Patent Judge | ) |                 |

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